

AMENDED IN SENATE JUNE 19, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1171

Introduced by Assembly Member Linder

February 27, 2015

An act to add Chapter 6.7 (commencing with Section 6970) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, as amended, Linder. Construction Manager/General Contractor method: regional transportation agencies: projects on expressways.

Existing law generally sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by local agencies for public works contracts. Existing law authorizes the Department of Transportation, the Santa Clara County Valley Transportation Authority, and the San Diego Association of Governments to use the Construction Manager/General Contractor project delivery method for transit projects within their respective jurisdictions, subject to certain conditions and requirements.

This bill would authorize regional transportation agencies, as defined, to use the Construction Manager/General Contractor project delivery method, as specified, to design and construct certain expressways that are not on the state highway system—*if if: (1) the expressways are developed in accordance with an expenditure plan approved by voters as of January 1, 2014. voters, (2) there is an evaluation of the traditional*

design-bid-build method of construction and of the Construction Manager/General Contractor method, and (3) the board of the regional transportation agency adopts the method in a public meeting. The bill would require the regional transportation agency to provide a report, containing specified information, to its governing body upon completion of a project using the Construction Manager/General Contractor method. The bill would require specified information provided to a regional transportation agency to be verified under oath. By expanding the scope of the existing crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.7 (commencing with Section 6970) is
2 added to Part 1 of Division 2 of the Public Contract Code, to read:

3
4 CHAPTER 6.7. CONSTRUCTION MANAGER/GENERAL
5 CONTRACTOR METHOD: REGIONAL PROJECTS ON EXPRESSWAYS

6
7 6970. (a) This chapter provides for an alternative procurement
8 procedure for certain transportation projects performed by a
9 regional transportation agency.

10 (b) The Construction Manager/General Contractor method
11 allows the regional transportation agency to engage a construction
12 manager during the design process to provide input on the design.
13 During the design phase, the construction manager provides advice
14 including, but not limited to, scheduling, pricing, and phasing to
15 assist the agency to design a more constructible project.

16 (c) The Legislature finds and declares that utilizing a
17 Construction Manager/General Contractor method requires a clear
18 understanding of the roles and responsibilities of each participant
19 in the process. The Legislature also finds and declares that
20 cost-effective benefits are achieved by shifting the liability and

1 risk for cost containment and project schedule to the construction
2 manager and by permitting the coherent phasing of projects into
3 discrete contract increments.

4 6971. For purposes of this chapter, the following definitions
5 apply:

6 (a) “Construction manager” means a partnership, corporation,
7 or other legal entity that is able to provide appropriately licensed
8 contracting and engineering services as needed pursuant to a
9 Construction Manager/General Contractor method contract.

10 (b) “Construction Manager/General Contractor method” means
11 a project delivery method in which a construction manager is
12 procured to provide preconstruction services during the design
13 phase of the project and construction services during the
14 construction phase of the project. The contract for construction
15 services may be entered into at the same time as the contract for
16 preconstruction services, or at a later time. The execution of the
17 design and the construction of the project may be in sequential
18 phases or concurrent phases.

19 (c) “Preconstruction services” means advice during the design
20 phase, including, but not limited to, scheduling, pricing, and
21 phasing to assist the regional transportation agency to design a
22 more constructible project.

23 (d) “Project” means the construction of an expressway that is
24 not on the state highway system.

25 (e) “Regional transportation agency” means ~~an entity as~~
26 ~~designated pursuant to paragraph (4) of subdivision (i) of Section~~
27 ~~6820.~~ any of the following:

28 (1) *A transportation planning agency described in Section 29532*
29 *or 29532.1 of the Government Code.*

30 (2) *A county transportation commission established under*
31 *Section 130050, 130050.1, or 130050.2 of the Public Utilities*
32 *Code.*

33 (3) *Any other local or regional transportation entity that is*
34 *designated by statute as a regional transportation agency.*

35 (4) *A joint exercise of powers authority established pursuant to*
36 *Chapter 5 (commencing with Section 6500) of Division 7 of Title*
37 *1 of the Government Code, with the consent of a transportation*
38 *planning agency or a county transportation commission for the*
39 *jurisdiction in which the transportation project will be developed.*

1 (5) *A local transportation authority created or designated*
2 *pursuant to Division 12.5 (commencing with Section 131000) or*
3 *Division 19 (commencing with Section 180000) of the Public*
4 *Utilities Code.*

5 (6) *The Santa Clara Valley Transportation Authority established*
6 *pursuant to Part 12 (commencing with Section 100000) of Division*
7 *10 of the Public Utilities Code.*

8 6972. (a) A regional transportation agency may utilize the
9 Construction Manager/General Contractor method of procurement
10 to design and construct projects if the projects are developed in
11 accordance with an expenditure plan approved by ~~voters as of~~
12 ~~January 1, 2014.~~ voters.

13 (b) *A regional transportation agency may enter into a*
14 *Construction Manager/General Contractor contract pursuant to*
15 *this chapter after evaluation of the traditional design-bid-build*
16 *method of construction and of the Construction Manager/General*
17 *Contractor method and the board of the regional transportation*
18 *agency affirmatively adopts the procurement strategy in a public*
19 *meeting.*

20 ~~(b)~~
21 (c) The entity responsible for the maintenance of the local streets
22 and roads within the jurisdiction of the expressway shall be
23 responsible for the maintenance of the expressway.

24 6973. Construction Manager/General Contractor method
25 projects authorized pursuant to Section 6972 shall be governed by
26 the same process, procedures, and requirements as set forth in
27 Section 6703, subdivision (a) of Section 6704, and Sections 6705
28 to 6708, inclusive, except that any reference to “department” shall
29 mean the regional transportation agency.

30 6974. (a) *Upon completion of a project using the Construction*
31 *Manager/General Contractor method, the regional transportation*
32 *agency shall prepare a progress report to its governing body. The*
33 *progress report shall include, but not be limited to, all of the*
34 *following information:*

35 (1) *A description of the project.*

36 (2) *The name of the entity that was awarded the project.*

37 (3) *The estimated and actual costs of the project.*

38 (4) *The estimated and actual schedule for project completion.*

1 (5) *A description of any written protests concerning any aspect*
2 *of the solicitation, bid, proposal, or award of the project, including,*
3 *but not limited to, the resolution of the protests.*

4 (6) *An assessment of the prequalification process and criteria*
5 *required by this chapter.*

6 (7) *A description of the method used to evaluate the bid or*
7 *proposal, including the weighting of each factor and an assessment*
8 *of the impact of this requirement on a project.*

9 (8) *A description of any challenges or unexpected problems that*
10 *arose during the construction of the project and a description of*
11 *the solutions that were considered and ultimately implemented to*
12 *address those challenges and problems.*

13 (9) *Recommendations to improve the Construction*
14 *Manager/General Contractor method authorized by this chapter.*

15 (b) *The progress report shall be made available on the regional*
16 *transportation agency's Internet Web site.*

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.